

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

TIMOTHY A. GUERRA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 4:05-CV-2322 (CEJ)
	)	
PUBLIC SAFETY CONCEPTS, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on the motion of plaintiff for default judgment against defendants Public Safety Concepts, Inc., and Lisa Dulaney.

Service on defendants Public Safety Concepts, Inc., and Lisa Dulaney was accomplished by service upon a registered agent on April 3, 2007. The Clerk of Court entered default on February 2, 2009.<sup>1</sup> The Court entered an order on January 30, 2009, directing the plaintiff to file "appropriate motions for default judgment" against the defendants, "supported by all necessary affidavits and documentation." The Court warned plaintiff that his failure to comply with the order would result in dismissal of the action against the defaulting defendants without prejudice.

On February 20, 2009, plaintiff filed the instant motion, requesting default judgment and a hearing to establish damages. Rule 55 of the Federal Rules of Civil Procedure does not mandate a hearing in default judgment

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<sup>1</sup>The Clerk of Court initially denied entry of default, finding that proper service had not been obtained. Upon review of the returns of service, the Court vacated the denial and directed the Clerk to enter default.

proceedings. Rather, the rule provides that “[t]he court may conduct hearings” when it needs to conduct an accounting, determine the amount of damages, establish the truth of an allegation by evidence, or investigate any other matter in the case in order to enter judgment. Fed. R. Civ. P. 55(b)(2). The plaintiff has submitted no affidavits or documentation in support of the motion, despite being directed to do so. Without these supporting materials, the Court cannot determine whether a hearing is necessary.

The plaintiff has not offered any justification for his failure to comply with the order entered on January 30, 2009. The Court therefore believes it is appropriate to deny the motion for default judgment and dismiss this action, as to the defaulting defendants, without prejudice.

Accordingly,

**IT IS HEREBY ORDERED** that the plaintiff’s motion for default judgment is denied.

  
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CAROL E. JACKSON  
UNITED STATES DISTRICT JUDGE

Dated this 14th day of April, 2009.